**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No.684 (M/B) of 2005**

Tek Chand Chauhan S/o Sri Swarn Singh, Jolly Grant, Post Office Doiwala, Dehradun, District Dehradun

..... **Petitioner**

**Vs**

1. State of Uttaranchal through Secretary Civil Aviation Department, Dehradun
2. Secretary, Civil Aviation Department, Dehradun
3. Special Land Acquisition Officer, Dehradun
4. Himalayan Institute of Hospital Trust, Jolly Grant Dehradun

**.....Respondents**

Sri Alok Singh Sr. Advocate, ld. Counsel for the petitioner
Sri U.K. Uniyal, Addl. Govt. Advocate, ld. Counsel for State
Sri V.K. Kohli, Sr. Advocate, ld. counsel for Respondent No. 4

**Dated: - August 10, 2006**

**Coram: Hon'ble P.C.Verma,J.**
**Hon'ble B.S. Verma,J.**

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned notifications dated 28.3.2005 and 16.6.2005 (Annexure Nos. 1 and 2 respectively).

2. The petitioner challenges the notification issued under Section 4 and 6 of the Land Acquisition Act, 1894 (***hereinafter will be referred to as the Act)*** on the ground that the land is being acquired for a registered society by which the Himalayan Institute of Medical Science is run, therefore, it is a company and for acquisition of the land for the company, the mandatory provisions contained in Part VII of the Act must be invoked and after the proceedings are completed under Part VII of the Act, only then the notification under

Section 6 of the Act could have been issued, therefore, the notice issued under Section 6 of the Act is illegal and is liable to be set aside.

3. From a perusal of the notification under Sections 4 and 6 of the Act, it is clear that the land has been acquired for the construction of road leading to the Himalayan Institute of Medical Sciences Hospital Trust. Thus, it is clear that the acquisition of the land is for the road to be used by the public to reach to the hospital. The land has not been acquired for the hospital which is being run by a society and company. Since, the land has not been acquired for Himalayan Institute of Medical Sciences Hospital Trust, therefore, the provisions of Part VII of the Act are not attracted in the present case.

4. Learned counsel for the petitioner relied upon the judgment of the Apex Court in case of *"Union of India and others Vs. Mukesh Hans, reported in 2004 (8) SCC 14* (by Hon'ble three judges)". In this case, the Hon'ble Apex Court found that there was no material on record showing the discontinuance of festival for want of land or any hindrance in using the land so far used for that purpose, therefore set aside the notification issued under Section 5-A and 17(4) of the Act.

5. The facts of this case are otherwise from the facts of that case. Here, there is sufficient material on record to show that the existing road to reach the hospital will be blocked after the expansion of the Airport up to the canal and after survey for the approach road, the acquisition has been made. Since, there is an urgency for the expansion of the airport as well as for the construction of road, therefore, we are satisfied that Section 17(4) of the

Act have rightly been invoked to dispense with requirement under Section 5-A of the Act.

6. Therefore, the writ petition is devoid of merit and is accordingly dismissed. No order as to costs.

**(B.S. Verma, J.)** **(P.C. Verma, J.)**

Rajeev Dang